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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
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09/986,346

11/08/2001

John Lawrence Bowers

54135US011

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32692 7590 11/18/2011  
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EXAMINER

RIVELL, JOHN A

ART UNIT

PAPER NUMBER

3753

NOTIFICATION DATE

DELIVERY MODE

11/18/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LegalUSDocketing@mmm.com

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/986,346 | <b>Applicant(s)</b><br>BOWERS, JOHN LAWRENCE |  |
|                              | <b>Examiner</b><br>JOHN RIVELL       | <b>Art Unit</b><br>3753                      |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10/3/11 (amendment).
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 5) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☒ Claim(s) 6, 17, 19-25, 47, 49-54, 70, 72-79, 83-96, 100-104, 108-112, 114-120, 122-124 and 126-129 is/are allowed.
- 7) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

Claims 6,17,19-25,47,49-54,70,72-79,83-96,100-104,108-112,114-120,122-124 and 126-129 are allowed.

This application is in condition for allowance except for the following formal matters: This application is objected to under 37 CFR 1.172(a) as lacking the written consent of all assignees owning an undivided interest in the patent. The consent of the assignee must be in compliance with 37 CFR 1.172. See MPEP § 1410.01.

A proper assent of the assignee in compliance with 37 CFR 1.172 and 3.73 is required in reply to this Office action.

This application, SN 09/986,346, is a Continuation Reissue application of Reissue application SN 09/442,082, now U. S. Reissue Patent No. RE37974. From M.P.E.P. §1401.01:

“Where a **continuation** reissue application is filed with a copy of the assignee consent from the parent reissue application, and the parent reissue application is not to be abandoned, the copy of the consent should not be accepted. Where a **divisional** reissue application is filed with a copy of the assignee consent from the parent reissue application, regardless of whether or not the parent reissue application is to be abandoned, the copy of the consent should not be accepted. The copy of the consent from the parent does not indicate that the assignee has consented to the addition of the new invention of the divisional reissue application to the original patent, or to the addition of the new error correction of the continuation reissue application. (Presumably, a new correction has been added via the continuation, *>because<* the parent is still pending.)”

As this application is a Continuation application of a Reissue application that is not abandoned, as indicated by Reissue Patent No. RE37974, and that the current Consent Assignee (Assent of Assignee filed March 6, 2002) is in fact a copy of the consent (assent) filed in the parent reissue application, the current consent of assignee

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is not acceptable for the reason that the copy of the consent from the parent does not indicate that the assignee has consented to the addition of the new error correction of the continuation reissue application.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN RIVELL whose telephone number is (571)272-4918. The examiner can normally be reached on Mon.-Fri. from 6:00am-2:30pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hepperle can be reached on (571) 272-4913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/John Rivell/  
John Rivell  
Primary Examiner  
Art Unit 3753**